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1 marked as Exhibit No. 2?

2 [A copy of
3 Renewal
4 Application -
5 Limited License
6 was marked as
7 Mushrush Exhibit
8 No. 2 for
9 identification.]

10 Q Before I hand this to you, one other
11 quick question. Did you ever write to
12 Dr. Badgaiyan relative to his need to
13 retake the exam? Is there a letter or
14 e-mail to that effect if you know?

15 A I don't recall.

16 Q If you take a look at this doctor.
17 It's been marked as Exhibit No. 2.

18 [Witness looking at document.]

19 Q Do you recognize that document,
20 Dr. Mushrush?

21 A It's renewal application for a limited
22 license.

23 Q And what is the purpose of a renewal
24 application for limited license?

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1 A A limited license is good only for one
2 year. So it has to be renewed every
3 year or a resident can't practice.

4 Q Is there any portion of this form that
5 you yourself filled in, Doctor?

6 A My signature.

7 Q What about the rest of Section B?

8 A Section B, yes -- well, there's a
9 checkmark and there's a date.

10 Q Did you check off no in response to
11 the question, has the physician been
12 subject to past or pending
13 disciplinary action in this program?

14 A Yes.

15 Q And what's the date of your signature?

16 A 2/14/02.

17 Q So that followed the July '01 e-mail
18 placing Raj on probation, am I
19 correct?

20 A Yes.

21 Q And was there a reason that you
22 checked "no" to past or pending
23 disciplinary action?

24 A Well, there are grades of disciplinary

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1 action and not all of them get
2 reported to the board. You know,
3 there are only the very serious ones
4 get reported to the board. I didn't
5 consider his not having passed this
6 test as serious because there were a
7 number of people who hadn't passed it,
8 and I thought it was just -- it didn't
9 reflect -- it reflected more his
10 stubbornness and his attitude, and I
11 didn't think I wanted to at this point
12 make an issue with the board.

13 MR. BARRISON: Mark this as
14 Exhibit No. 3.

15 [A copy of
16 Renewal
17 Application -
18 Limited License
19 was marked as
20 Mushrush Exhibit
21 No. 3 for
22 identification.]

23 Q Would you take a moment to examine
24 what's been marked as Exhibit No. 3,

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1 and then I'm going to ask you if you
2 recognize it?

3 [Witness looking at document.]

4 Q Do you recognize that document,
5 Dr. Mushrush?

6 A Yes. It's the same document a year
7 later.

8 Q A year later. And is it true as well
9 then for Section B that's your
10 signature, date, and a check in the
11 box where "no" to the question, has
12 the physician been subject to past or
13 pending disciplinary action in this
14 program?

15 A Yes.

16 Q And the reason that you checked "no,"
17 was that the same as you have
18 explained for the initial renewal?

19 A Yes.

20 Q Would you agree that being placed on
21 probation is a black mark on a
22 resident or fellow's training at the
23 Brockton V.A.?

24 A It depends on what kind of probation.

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MR. BARRISON: Let me have this marked. I think you're up to No. 4.

[A copy of Postgraduate Verification Form - Page 2 was marked as Mushrush Exhibit No. 4 for identification.]

Q You wanted to add something to that exhibit?

A I believe the second exhibit is after he had done the extended training and he was in his final year. And so he had already made -- the training committee had asked him to do extended training of three months. And this was after he had already done that. So he was back, as far as I was concerned, in good status.

MR. FARQUHAR: Could we just have the record reflect that the deponent was pointing to Exhibit.

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No. 3?

MR. BARRISON: Certainly. Thank you.

Q Doctor, this has been marked as Exhibit No. 4, and would you take a peek at that, please?

[Witness looking at document.]

Q Do you recognize Exhibit 4?

A Yes.

Q And what is it?

A It's part of an application for something. It's part of his post-graduation verification form from the board.

Q Is that your signature that appears on Page 1 at the bottom? Page 1, Doctor.

A You're referring to this as Page 1 --

Q Yes.

A -- because it's labeled Page 2? Yes.

Q And the date of your signature is given there as well?

A 2/24/04.

Q So Dr. Badgaiyan would have finished his training at the Brockton V.A. by

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then, am I right?

A That's true.

Q And the second page, can you briefly describe what Page 2 and 3 are of this exhibit?

A It's an explanation to accompany the form.

Q And that's your signature that appears at the end of the letter?

A Right. I guess you had to -- you had to explain anything that was labeled "no." So these were referring to those answers.

Q Specifically, it's referring, Doctor, to Question No. 2 on the first page, was the applicant ever placed on probation where the box for yes is checked off.

A Uh-huh.

Q Is that correct?

A Yes.

Q And you placed that checkmark under yes, am I right?

A Yes -- wait a minute. Yes, okay.

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Q You placed the checkmark for yes?

A Yes.

Q The applicant had been placed on probation?

A Right.

Q If the fact of his probation wasn't important enough for the first renewal, why did you check "yes" on this application, Doctor?

A This -- this is a more serious thing. It's a permanent license, and I felt that there -- there had been other things that had happened including the extension of his training, et cetera that has been a problem. So I felt that there should be some record of that.

Q Well, wasn't that addressed in Question No. 4 where you checked "yes, were any negative reports ever filed by instructors regarding the applicant"?

A I'm sorry. I don't understand your question.

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1 Q Weren't the other issues to which you
2 alluded addressed by checking "yes" to
3 No. 4, that there had been negative
4 reports about Raj?
5 A Well, there had also been an action in
6 that he was required to extend his
7 training.
8 Q Was he ever placed on probation other
9 than the instance that was initiated
10 by your July 2001 e-mail?
11 A Not -- not per se probation. We don't
12 -- we don't generally label things
13 that way.
14 Q So the only time the word "probation"
15 appears is in the July 1 e-mail,
16 correct?
17 A That's true.
18 Q And the first renewal application that
19 followed that, you checked "no" for
20 any disciplinary, correct?
21 A Yes.
22 Q And --
23 A Somebody checked "no."
24 Q Well, did you check it or not?

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1 A I don't know if I checked it or the
2 secretary did. She sticks these under
3 my nose to sign, and I go through the
4 pile of them. And so I'm not sure who
5 checked it.
6 Q But you signed it though?
7 A But I signed it, yes.
8 Q So the July '01 e-mail was the only
9 time the word "probation" appeared?
10 A Yes.
11 Q He was never formally or informally
12 placed on probation during the rest of
13 his training, correct?
14 A Correct. Although if he hadn't done
15 it, he would not have been allowed to
16 graduate.
17 Q And he did graduate, correct?
18 A Yes.
19 Q So on this postgraduate verification
20 form where you checked yes, you're
21 referring back to that probation
22 referenced in the July e-mail?
23 A Yes.
24 MR. BARRISON: May I have this

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1 marked?
2 [A copy of a
3 letter dated
4 April 3, 2000
5 from Grace J.
6 Mushrush was
7 marked as
8 Mushrush Exhibit
9 No. 5 for
10 identification.]
11 Q Would you take a look at that,
12 Dr. Mushrush?
13 [Witness looking at document.]
14 A Okay.
15 Q Do you know Dr. Luca Savu, Doctor,
16 Luca Savu?
17 A That's not her first name.
18 Q Oh, what's her first name?
19 A Raluca Savu.
20 Q Raluca Savu. Who is she?
21 A She was a resident in the program.
22 Q Did you write this letter to her?
23 A I honestly don't remember this letter,
24 but -- was that her -- was that whose

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1 name was blacked out?
2 MR. FARQUHAR: You don't -- at
3 this time answer the questions
4 directly. If you recognize the
5 letter, you can state as such. If you
6 don't recognize it, state you don't
7 recognize it.
8 A I don't recall this letter.
9 Q What about the signature, Doctor,
10 would you take a look at that in the
11 lower left-hand corner and tell me if
12 that is your signature?
13 A Yes, it is.
14 Q In the first paragraph of the letter,
15 the second sentence -- I'll read it
16 for the record -- "It was unanimously
17 agreed to send you this letter of
18 warning which can be lifted should
19 your performance improve to an
20 acceptable level."
21 Do you recall writing this
22 letter of warning to Dr. Savu?
23 A I don't, no.
24 MR. FARQUHAR: I'm going to